

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

2006 DEC -4 A 8:44

UNITED STATES OF AMERICA)
)
v.)
)
ROY TERRY)

CASE NO. 3:05-CR-00141-MEF-CSC

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

MOTION TO POSTPONE REPORT DATE

COMES NOW the Defendant Roy Terry by and through counsel and files this Motion to Postpone Report Date and states the following grounds:

1. The Defendant was sentenced by the Court on September 11, 2006. At said sentencing hearing, the Defendant was sentenced to serve 78 months for his role in activities surrounding the collapse of Terry Manufacturing Company of Roanoke, Alabama.

2. At the sentencing hearing the Court ordered the Defendant to report to the Federal Bureau of Prisons no later than 2:00 p.m. on December 14, 2006.

3. The Defendant has been very cooperative with the United States Attorney, the attorneys for the Bankruptcy Trustee of Terry Manufacturing and others in a major civil case against Cintas Corporation of Cincinnati, Ohio in an attempt to recover maximum funds possible for the repayment of creditors.

4. The Defendant continues to cooperate in any way possible at the request of the United States attorney, attorneys for the Trustee and others in this matter.

5. Your Honor had set the Defendant's report date for December 14th to allow Mr. Terry to provide as much assistance as possible in the civil case while he is still readily available. However, due to circumstances beyond our control, the attorneys will not have been able to accomplish as much as they would have hoped by December 14th. Discovery and depositions have been delayed due to an action by Cintas Corporation, defendant in the civil case, requesting that the Alabama Supreme Court rehear the case to keep retain venue in Randolph County, Alabama rather than having it removed to Delaware. All discovery was stayed pending settlement of the venue issue. On November 17, 2006, the Alabama Supreme Court unanimously rejected Cintas' request for rehearing.

6. Attorneys for the Trustee are now in the process of obtaining necessary documents to prepare for the deposition of Mr. Terry and to accomplish other discovery matters that will be beneficial to their case against Cintas.


7. Mr. Terry is anxious to cooperate and assist counsel for the Trustee in any way possible and this will be much easier to accomplish and can be done more effectively while Mr. Terry is readily available.

8. We would, therefore, respectfully request that the Defendant's date for reporting to the Federal Bureau of Prisons be postponed to a date in March 2007 in order that he may be available and as helpful as possible in the preparation of the case against Cintas.

Respectfully submitted this the ^{1st} ~~30th~~ ^{December} day of November 2006.

CAPELL & HOWARD, P.C.

By:


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CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing instrument upon the following individual(s), properly addressed, by placing same in the United States Mail, first-class, postage prepaid, on this the ~~30th~~ ^{1st} day of ~~November~~ ^{December} 2006.

Andrew O. Schiff, Esq.
Assistant U.S. Attorney
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Mr. Doug Mathis
United States Probation Office
Post Office Box 39
Montgomery, AL 36101

By:


GEORGE L. BECK, JR. (BEC011)